

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

400L0763

SENATE BILL NO. 221

Introduced by: The Committee on Health and Human Services at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to establish certain restrictions regarding the sale and
2 purchase of products containing pseudoephedrine or ephedrine and to provide penalties for
3 violation thereof.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. No retailer may sell, in a single transaction, more than two packages containing
6 pseudoephedrine or ephedrine as an active ingredient. For purposes of this Act, the term,
7 retailer, means any person who sells merchandise at retail and from whom original packages of
8 nonprescription drugs are sold or taken to be sold at retail. Any retailer or any employee of a
9 retailer who sells packages containing pseudoephedrine or ephedrine in violation of this section
10 is guilty of a Class 1 misdemeanor.

11 Section 2. No person may purchase, in a single transaction, more than two packages
12 containing pseudoephedrine or ephedrine as an active ingredient. Any person who purchases
13 packages containing pseudoephedrine or ephedrine in violation of this section is guilty of a
14 Class 1 misdemeanor.

15 Section 3. Any retailer who offers for sale a product containing pseudoephedrine as the
16 product's sole active ingredient shall display and offer the product for sale, except as otherwise



1 provided, behind a counter where the public is not permitted or in a locked case so that a
2 customer wanting access to the package must ask a store employee for assistance. The retailer
3 may display or offer for sale without restriction a product containing pseudoephedrine as the
4 sole active ingredient if the product is displayed using any type of anti-theft device system
5 including an electronic anti-theft device system that utilizes a product tag and detection alarm
6 which prevents the theft of the product. This section does not apply to any package of a product
7 containing pseudoephedrine as the product's sole active ingredient which is in liquid, liquid cap,
8 or gel cap form or any package of a product containing pseudoephedrine as the product's sole
9 active ingredient which is primarily intended for administration to children under twelve years
10 of age, according to the product's label, regardless of whether the product is in liquid or solid
11 form.

12 Section 4. Any retailer who offers for sale any combination product containing
13 pseudoephedrine or ephedrine as an active ingredient, any package of a product containing
14 pseudoephedrine as the product's sole active ingredient which is in liquid, liquid cap, or gel cap
15 form or any package of a product containing pseudoephedrine as the product's sole active
16 ingredient which is primarily intended for administration to children under twelve years of age,
17 according to the product's label, regardless of whether the product is in liquid or solid form,
18 shall display and offer such product for sale, except as otherwise provided, within twenty feet
19 of a counter which allows the attendant to view the products in an unobstructed manner. A
20 retailer may display or offer for sale without restriction any of the products listed in this section
21 if the product is displayed using any type of anti-theft device system, including an electronic
22 anti-theft device system that utilizes a product tag and detection alarm which prevents the theft
23 of the product.

24 Section 5. A retailer shall post notice at the location where a product containing

1 pseudoephedrine or ephedrine as an active ingredient is displayed or offered for sale stating the
2 following:

3 South Dakota law prohibits the sale or purchase of more than two packages containing
4 pseudoephedrine or ephedrine as an active ingredient.

5 Section 6. No employee or retailer is civilly liable to any injured person or the person's estate
6 for any injury suffered, including any wrongful death, or property damage suffered due to the
7 sale of any pseudoephedrine or ephedrine product in violation of section 1 of this Act.

8 Section 7. No county or municipality may establish requirements or establish a penalty that
9 is higher or more stringent than the requirements or penalties established by this Act.